



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 6, 1991

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Texas Department of Criminal Justice  
Institutional Division  
P.O. Box 99  
Huntsville, Texas 77342-0099

OR91-542

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13317.

You have received a request from an inmate in the custody of the Texas Department of Criminal Justice (TDCJ) for information identifying the age and marital status of two correctional officers assigned to the department's Eastham Unit. You maintain that the requested information is excepted from required public disclosure by section 3(a)(2) of the Open Records Act.

We have considered the exception you claim and have reviewed the documents submitted to us. Previous open records decisions issued by this office resolve your request. Section 3(a)(2) excepts from required public disclosure "information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." This section protects personnel file information only if its release would cause an invasion of privacy under the test articulated for section 3(a)(1) of the act by the Texas Supreme Court in *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.); Open Records Decision No. 441 (1986). Under the *Industrial Foundation* case, information may be withheld on

common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. On this basis, this office has in a previous open records decision held the age of a public employee to be public information. Open Records Decision No. 215 (1978).

Among your reasons for seeking to withhold the requested information is that the information may be used by inmates to harass and intimidate corrections officers in the performance of their jobs, particularly those who are of the opposite sex of inmates they guard. You advise that on one occasion information regarding birthdates of female employees was obtained by an inmate who later sent offensive correspondence to the employees on their birthdays. You argue that information regarding the age and marital status can be used in similar fashion.

While we have concluded that this argument does not suffice to invoke section 3(a)(2) of the Open Records Act, we do believe it makes a persuasive case under section 3(a)(8), which excepts

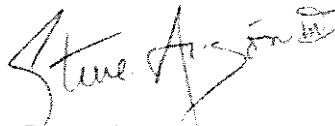
records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

The TDCJ is a law enforcement agency for purposes of section 3(a)(8). Attorney General Opinion MW-381 (1981) at 3.

This office has recognized on several occasions that the interest in maintaining security at the correctional institutions of TDCJ is sufficient to warrant withholding information under section 3(a)(8). See Open Records Decision Nos. 508 (1988); 413 (1984). We agree that information regarding a correctional officer's marital status can be used by inmates to harass, embarrass, and intimidate the officer, thereby jeopardizing the security of TDCJ correctional institutions and the safety of inmates. We are not persuaded, however, that the age of a correctional officer can be used in an intimidating manner or that its release would impair the security of TDCJ institutions. Accordingly, we conclude that the marital status of the TDCJ employees in question may be withheld pursuant to section 3(a)(8), but the age of these employees must be disclosed to the requestor.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-542.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steve Aragon". The signature is stylized with a large, sweeping "S" and a cursive "Aragon".

Steve Aragon  
Assistant Attorney General  
Opinion Committee

SA/GK/lcd

Ref.: ID# 13317

cc: Mr. George Earl Jones III  
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